

[DISCUSSION DRAFT]

116TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To strengthen the Financial Stability Oversight Council, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. GARCIA of Illinois introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To strengthen the Financial Stability Oversight Council, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Systemic Risk Mitiga-  
5 tion Act of 2019”.

6 **SEC. 2. MEMBER AGENCY FINANCIAL STABILITY MANDATE.**

7 (a) IN GENERAL.—Subtitle A of the Financial Sta-  
8 bility Act of 2010 (12 U.S.C. 5321 et seq.) is amended  
9 by adding at the end the following:

1 **“SEC. 124. MEMBER AGENCY FINANCIAL STABILITY MAN-**  
2 **DATE.**

3 “Each member agency shall have, as part of the  
4 agency’s mission, a mandate to ensure the financial sta-  
5 bility of the United States.”.

6 (b) CLERICAL AMENDMENT.—The table of contents  
7 for the Dodd-Frank Wall Street Reform and Consumer  
8 Protection Act is amended by inserting after the item re-  
9 lating to section 123 the following:

“Sec. 124. Member agency financial stability mandate.”.

10 **SEC. 3. AUTOMATIC DESIGNATION OF CERTAIN LARGE**  
11 **NONBANK FINANCIAL COMPANIES.**

12 (a) IN GENERAL.—The Financial Stability Act of  
13 2010 (12 U.S.C. 5311 et seq.) is amended by inserting  
14 after section 113 the following:

15 **“SEC. 113A. AUTOMATIC DESIGNATION OF CERTAIN LARGE**  
16 **NONBANK FINANCIAL COMPANIES.**

17 “(a) NOTICE OF AUTOMATIC DESIGNATION.—If a  
18 nonbank financial company meets the criteria described in  
19 subsection (b), the Council shall notify such nonbank fi-  
20 nancial company that if, on the date that is 9 months after  
21 the date on which the notice is sent, such nonbank finan-  
22 cial company meets the criteria described in subsection  
23 (b), such nonbank financial company shall be deemed to  
24 be designated as systemically important.

25 “(b) CRITERIA.—

1           “(1) IN GENERAL.—A nonbank financial com-  
2           pany meets the criteria described in this subsection  
3           if such nonbank financial company satisfies the asset  
4           criteria in paragraph (2) and the other criteria in  
5           paragraph (3).

6           “(2) ASSET CRITERIA.—A nonbank financial  
7           company satisfies the asset criteria in this para-  
8           graph if such nonbank financial company has—

9                   “(A) in the case of an investment company  
10                  that is registered with the Commission under  
11                  the Investment Company Act of 1940,  
12                  \$50,000,000,000 or more in net assets;

13                  “(B) in the case of a company that would  
14                  be an investment company (as defined in the  
15                  Investment Company Act of 1940) but for sec-  
16                  tion 3(c)(1) or 3(c)(7) of that Act,  
17                  \$400,000,000,000 or more in gross notional ex-  
18                  posure individually or in combination with any  
19                  feeder funds, parallel funds, or dependent par-  
20                  allel managed accounts of the company; or

21                  “(C) in the case of any nonbank financial  
22                  company not described under subparagraph (A)  
23                  or (B), \$50,000,000,000 or more in consoli-  
24                  dated assets.

1           “(3) OTHER CRITERIA.—A nonbank financial  
2 company satisfies the criteria in this paragraph if  
3 such nonbank financial company has—

4           “(A) \$30,000,000,000 or more in gross no-  
5 tional credit default swaps outstanding for  
6 which the nonbank financial company is the ref-  
7 erence entity;

8           “(B) \$3,500,000,000 or more of deriva-  
9 tives liabilities;

10           “(C) \$20,000,000,000 or more in total  
11 debt outstanding;

12           “(D) a 15-1, or higher, leverage ratio;

13           “(E) a 10 percent, or higher, short-term  
14 debt ratio; or

15           “(F) \$1,000,000,000,000 or more in assets  
16 under management.

17           “(d) RESCISSION OF DESIGNATION.—

18           “(1) IN GENERAL.—With respect to a nonbank  
19 financial company designated as systemically impor-  
20 tant under subsection (a), if the Council determines  
21 that neither material financial distress at the  
22 nonbank financial company, nor the nature, scope,  
23 size, scale, concentration, interconnectedness, or mix  
24 of the activities of the nonbank financial company,  
25 could pose a threat to the financial stability of the

1 United States, the Council may rescind such des-  
2 ignation (in this subsection referred to as a ‘rescis-  
3 sion determination’) for a period of 2 years.

4 “(2) AUTHORITY TO RENEW RESCISSION.—The  
5 Council may renew a rescission determination made  
6 under paragraph (1) for an unlimited number of ad-  
7 ditional 2-year periods, if the Council makes a new  
8 determination that the nonbank financial company  
9 meets the criteria described under paragraph (1) at  
10 the beginning of each such renewal.

11 “(3) AUTHORITY TO REVIEW RESCISSION.—The  
12 Chairperson may review the status of a nonbank fi-  
13 nancial company with respect to a rescission deter-  
14 mination before the end of a 2-year period described  
15 under paragraph (1) or (2) for any reason. The  
16 Chairperson shall notify the members of the Council  
17 of such review and shall call a vote to renew the re-  
18 scission determination within 7 days of such notifi-  
19 cation. If the Council fails to renew the rescission  
20 determination, the nonbank financial company shall  
21 be deemed once again to be designated as system-  
22 ically important.

23 “(e) AUTOMATIC RESCISSION OF DESIGNATION.—If  
24 a nonbank financial company does not meet the criteria  
25 described in subsection (b) for 9 consecutive months, the

1 Council shall immediately, and automatically rescind the  
2 designation of the nonbank financial company as system-  
3 ically important.

4 “(f) APPLICATION.—For purposes of this section, the  
5 term ‘nonbank financial company’ does not include a Gov-  
6 ernment-sponsored enterprise.

7 “(g) DEFINITION.—In this section and with respect  
8 to a nonbank financial company, the term ‘designated as  
9 systemically important’ means the nonbank financial com-  
10 pany is subject to a determination under section 113 that  
11 the nonbank financial company shall be supervised by the  
12 Board of Governors and shall be subject to prudential  
13 standards, in accordance with this title.”.

14 (b) CLERICAL AMENDMENT.—The table of contents  
15 for the Dodd-Frank Wall Street Reform and Consumer  
16 Protection Act is amended by inserting after the item re-  
17 lating to section 113 the following:

“Sec. 113A. Automatic designation of certain large nonbank financial compa-  
nies.”.

18 (c) EFFECTIVE DATE.—This section and the amend-  
19 ments made by this section shall take effect not later than  
20 9 months after the date of the enactment of this Act.

21 **SEC. 4. COUNCIL REGULATION OF SYSTEMICALLY RISKY**  
22 **ACTIVITIES.**

23 (a) IN GENERAL.—Subtitle A of the Financial Sta-  
24 bility Act of 2010 (12 U.S.C. 5321 et seq.), as amended

1 by section 2, is further amended by adding at the end the  
2 following:

3 **“SEC. 125. COUNCIL REGULATION OF RISKY ACTIVITIES.**

4 “(a) **AUTHORITY OF THE COUNCIL.**—Subject to sub-  
5 section (b), the Council shall issue such rules as may be  
6 required to regulate an activity or practice if the Council  
7 determines that the conduct, scope, nature, size, scale,  
8 concentration, or interconnectedness of such activity or  
9 practice could create or increase the risk of significant li-  
10 quidity, credit, or other problems spreading among bank  
11 holding companies and nonbank financial companies, fi-  
12 nancial markets of the United States, or low-income, mi-  
13 nority, or under- served communities.

14 “(b) **COUNCIL DELEGATION TO THE PRIMARY REGU-**  
15 **LATOR.**—With respect to an activity or practice that the  
16 council determines meets the standard outlined in sub-  
17 section (a)—

18 “(1) the Council shall issue recommendations to  
19 the primary regulator for a rulemaking to address  
20 the risk posed by the activity, and provide the pri-  
21 mary regulator with a 12-month period to issue a  
22 final rule to address such risk; and

23 “(2) if the primary regulator does not issue  
24 such a final rule within the period described under  
25 paragraph (1) or the Council determines that such

1 final rule is insufficient to address the risk, the  
2 Council may—

3 “(A) terminate such final rule, if applica-  
4 ble; and

5 “(B) issue a rule to address the risk.

6 “(c) BACKUP AUTHORITY OF THE COUNCIL FOR  
7 MEMBER AGENCY RULEMAKINGS.—With respect to any  
8 rulemaking required of a member agency by Federal stat-  
9 ute, if the member agency does not issue the rule within  
10 the time frame required by such Federal statute, the  
11 Council may issue such rule in place of the member agen-  
12 cy.

13 “(d) PRIMARY REGULATOR DEFINED.—With respect  
14 to an activity, the term ‘primary regulator’ means—

15 “(1) one or more member agencies that the  
16 Council determines are primarily responsible for reg-  
17 ulating the activity; or

18 “(2) if the Council cannot make a determina-  
19 tion under paragraph (1), the member agency that  
20 the Council determines is the best choice to serve as  
21 the primary regulator with respect to such activity.”.

22 (b) CLERICAL AMENDMENT.—The table of contents  
23 for the Dodd-Frank Wall Street Reform and Consumer  
24 Protection Act, as amended by section 2, is further

1 amended by inserting after the item relating to section  
2 124 the following:

“Sec. 125. Council regulation of systemically risky activities.”.

3 **SEC. 5. MINIMUM STAFFING AND FUNDING LEVELS FOR**  
4 **THE COUNCIL AND THE OFFICE OF FINAN-**  
5 **CIAL RESEARCH.**

6 (a) IN GENERAL.—The Financial Stability Act of  
7 2010 (12 U.S.C. 5311 et seq.) is amended—

8 (1) in section 118—

9 (A) in the section heading, by adding  
10 “**AND STAFFING**” at the end;

11 (B) by striking “Any expenses” and insert-  
12 ing the following:

13 “(a) EXPENSES.—Any expenses”;

14 (C) by inserting after “Office of Financial  
15 Research.” the following: “The Office of Finan-  
16 cial Research shall transfer a minimum of  
17 \$18,000,000 to the Council each year (adjusted  
18 for inflation) to pay for the costs of the Council  
19 in carrying out the duties and responsibilities of  
20 the Council.”; and

21 (D) by adding at the end the following:

22 “(b) MINIMUM STAFFING LEVELS.—The Council  
23 shall maintain a minimum staff of 75 employees.”;

24 (2) in section 152—

1 (A) in subsection (c), by striking “, in con-  
2 sultation with the Chairperson,”; and

3 (B) in subsection (d)(1), by inserting be-  
4 fore the period at the end the following: “, ex-  
5 cept that the Office shall maintain a minimum  
6 staff of 300 employees”;

7 (3) in section 153(b)—

8 (A) in paragraph (2), by striking “and” at  
9 the end;

10 (B) in paragraph (3), by striking the pe-  
11 riod on the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(4) require any member agency to produce  
14 such data and other information as the Director  
15 may determine necessary to carry out the duties of  
16 the Office.”; and

17 (4) in section 155(d)—

18 (A) by striking “the Secretary” and insert-  
19 ing “the Office”; and

20 (B) by adding at the end the following:

21 “The aggregate amount of assessments under  
22 this subsection with respect to a calendar year  
23 shall not be less than \$168,000,000 (adjusted  
24 for inflation).”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 for the Dodd-Frank Wall Street Reform and Consumer  
3 Protection Act is amended in the item relating to section  
4 118 by adding at the end the following: “AND STAFF-  
5 ING”.

6 **SEC. 6. TRANSPARENCY IN OPERATIONS OF THE FINAN-**  
7 **CIAL STABILITY OVERSIGHT COUNCIL.**

8 (a) MEETINGS.—Section 111(e) of the Financial Sta-  
9 bility Act of 2010 (12 U.S.C. 5321(e)) is amended—

10 (1) in paragraph (1), by striking “not less fre-  
11 quently than quarterly.” and inserting “not less fre-  
12 quently than twice each quarter. At least 1 of such  
13 quarterly meetings shall be open to the public.”; and

14 (2) by adding at the end the following:

15 “(3) TRANSCRIPTS.—The Council shall publicly  
16 release transcripts of meetings held pursuant to  
17 paragraph (1) not later than 5 years after the date  
18 of such meeting.”.

19 (b) TESTIMONY.—Section 112(c) of the Financial  
20 Stability Act of 2010 (12 U.S.C. 5322(c)) is amended—

21 (1) in the subsection heading, by striking “BY  
22 THE CHAIRPERSON”; and

23 (2) by inserting “and each voting member of  
24 the Council” after “The Chairperson”.

1           (c) MEMBER AGENCY STATEMENTS.—Section 112 of  
2 the Financial Stability Act of 2010 (12 U.S.C. 5322) is  
3 amended by adding at the end the following:

4           “(e) MEMBER AGENCY STATEMENTS.—After pro-  
5 viding testimony pursuant to subsection (c), the head of  
6 each member agency shall submit to Congress a signed  
7 statement—

8                   “(1) affirming that the member agency is tak-  
9 ing all reasonable steps to ensure financial stability  
10 and to mitigate systemic risk that would negatively  
11 affect the economy; or

12                   “(2) detailing additional steps that the member  
13 agency should take to ensure financial stability and  
14 to mitigate systemic risk that would negatively affect  
15 the economy.”.